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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/802,421 | 03/09/2001 | Petr Peterka | 18926005610 | 5414 |

43471 7590 06/16/2006

GENERAL INSTRUMENT CORPORATION DBA THE CONNECTED
HOME SOLUTIONS BUSINESS OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

EXAMINER

MA, JOHNNY

| | |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2623

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/802,421 | PETERKA, PETR | |
| | Examiner | Art Unit | |
| | Johnny Ma | 2623 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The rejections under 35 USC § 112 of claims 71 and 77 have been withdrawn in view of Applicant's amendments to the claims..
2. Applicant's arguments filed 3/22/2006 have been fully considered but they are not persuasive.

It is noted that in the present Amendment, Applicant has explicitly added the limitations of "a pay-by-time" and "time-limited" to the claims. However, the examiner respectfully disagrees that the amendment distinguishes the claimed invention from the invention disclosed by Schlarb. Applicant argues that "[c]ontrastingly, the Applicant's invention is directed to providing a subscriber with the ability to incrementally purchase time blocks of programming, as is now very clearly claimed. Nothing in Schlarb anticipates, or even suggests such an incremental time-based subscription scheme." (Remarks, see pg. 12). However, it is noted that such a limitation is not set forth in the claims. Rather, as discussed by Applicant, the claim recites "pay-by-time" and "time-limited." As discussed in the rejection below, "[i]nformation content is the entire catalog of movies. A single movie is a time-limited portion of the information content." Furthermore, the pay-per-view system as taught by Schlarb satisfies the claimed "pay-by-time" limitation as amended since an user paying to view a program is also paying to view the program for a period of time, paying by time.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **70-87** are rejected under 35 U.S.C. 102(e) as being anticipated by Schlarb (US 6,802,077 of record).

Regarding claim **70**, Schlarb teaches a method for receiving information content from an information distribution system, wherein the information content is divided into a plurality of time-limited portions (See Col. 3 lines 9-33 Information content is the entire catalog of movies. A single movie is a time-limited portion of the information content), the method comprising: prompting for a pay-per-time subscription to either a first multicast group that receives a first time-limited portion of the entire information content or a second multicast group that receives a second time-limited portion of the entire information content (See Col. 3 lines 9-33 The PPV channel prompts the user to purchase one of the many movies. A group of users that receive the same movie is a multicast group); receiving a selection to subscribe to either the first multicast group or the second multicast group (See Col. 3 lines 9-33 The user purchases a one of the offered movies); providing either the first time-limited portion of the entire information content or the second time-limited portion of the entire information content depending on the selection (See Col. 3 lines 9-33 The HCT tunes to the selected MPEG transport stream); prompting for a pay-by-time subscription to a third multicast group wherein the third multicast group receives a third time-limited portion of the entire information content and wherein the prompting for the pay-by-time subscription to the third multicast group occurs after the selection to subscribe to the second multicast group and substantially near the end of the second time-limited portion of the

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entire information content (See Col. 5 lines 56-57 When the user's movie is over the system returns to the PPV channel which prompts the user to order another movie).

Regarding claim 71, Schlarb teaches wherein a length of a third time-limited portion of the entire information content is substantially equal to a length of the entire information content minus a length of the second time-limited portion of the entire information content (Since "a length" of a portion could range from none the portion to the whole portion, this claim is met e.g. $0-0=0$).

Regarding claim 72, Schlarb teaches the method of claim 70 further comprising: prompting for a pay-by-time subscription to a fourth multicast group wherein the fourth multicast group receives a fourth time-limited portion of the entire information content wherein the prompting for a pay-by-time subscription to the forth multicast group occurs after the selection of the second multicast group and substantially near the end of the second time-limited portion of the entire information content (See Col. 5 lines 56-57 When the user's movie is over the system returns to the PPV channel which prompts the user to order another movie).

Regarding claim 73-75, claims deal with defining "a total number of multicast groups." Since a total number could be any number, the limitation is met.

Regarding claims 76 and 82, See rejection of claim 70.

Regarding claims 77 and 83, See rejection of claim 71.

Regarding claims 78 and 84, See rejection of claim 72.

Regarding claims 79-81 and 85-87, See rejection of claims 73-75.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jm


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600